



House of Representatives

General Assembly

File No. 84

January Session, 2003

Substitute House Bill No. 6431

House of Representatives, March 27, 2003

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING JURY DUTY.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2003*) Any matter involving the
2 failure of a person to appear for jury service as provided in section 51-
3 237 of the general statutes, as amended by this act, may be heard by a
4 magistrate, except a prosecution under subsection (e) of said section. A
5 magistrate appointed to hear such matter in a proceeding under said
6 section shall not be bound by the rules regarding the admissibility of
7 evidence and shall not be required to keep a record of such
8 proceeding, but all testimony in such proceeding shall be given under
9 oath or affirmation. Either party to such proceeding may be
10 represented by counsel. The magistrate may impose the civil penalty
11 authorized by section 51-237 of the general statutes, as amended by
12 this act, remit the civil penalty in whole or in part or dismiss the
13 proceeding.

14 Sec. 2. Section 51-193l of the general statutes is repealed and the

15 following is substituted in lieu thereof (*Effective October 1, 2003*):

16 The Chief Court Administrator shall make such orders and rules as
17 he deems necessary to provide for the appointment of magistrates to
18 hear and decide cases pursuant to the provisions of sections 51-193t
19 and 51-193u and section 1 of this act. Any commissioner of the
20 Superior Court, admitted to practice in this state for at least five years,
21 who is able and willing to hear such cases designated in accordance
22 with sections 51-193t and 51-193u and section 1 of this act may be
23 appointed as a magistrate. Any probate judge who is a commissioner
24 of the Superior Court admitted to practice in this state for at least five
25 years may submit [his] such probate judge's name to the Probate Court
26 Administrator, who shall submit a list of such names to the Office of
27 the Chief Court Administrator for approval to be placed on a list of
28 available magistrates for one or more judicial districts.

29 Sec. 3. Subsection (a) of section 51-197a of the general statutes is
30 repealed and the following is substituted in lieu thereof (*Effective*
31 *October 1, 2003*):

32 (a) Appeals from final judgments or actions of the Superior Court
33 shall be taken to the Appellate Court in accordance with section 51-
34 197c, except for small claims matters and matters involving the failure
35 of a person to appear for jury service as provided in subsections (a) to
36 (d), inclusive, of section 51-237, as amended by this act, which are not
37 appealable, appeals within the jurisdiction of the Supreme Court as
38 provided for in section 51-199, appeals as provided for in sections 8-8
39 and 8-9, and except as otherwise provided by statute.

40 Sec. 4. Subsection (a) of section 51-217 of the general statutes is
41 repealed and the following is substituted in lieu thereof (*Effective*
42 *October 1, 2003*):

43 (a) All jurors shall be electors, or citizens of the United States who
44 are residents of this state having a permanent place of abode in this
45 state and appear on the list compiled by the Jury Administrator under
46 subsection (b) of section 51-222a, who have reached the age of

47 eighteen. A person shall be disqualified to serve as a juror if such
48 person; (1) [is] is found by a judge of the Superior Court to exhibit any
49 quality which will impair the capacity of such person to serve as a
50 juror, except that no person shall be disqualified on the basis of
51 deafness or hearing impairment; (2) has been convicted of a felony
52 within the past seven years or is a defendant in a pending felony case
53 or is in the custody of the Commissioner of Correction; (3) is not able
54 to speak and understand the English language; (4) is the Governor,
55 Lieutenant Governor, Secretary of the State, Treasurer, Comptroller or
56 Attorney General; (5) is a judge of the Probate Court, Superior Court,
57 Appellate Court or Supreme Court, is a family support magistrate or is
58 a federal court judge; [(6) is a member of the General Assembly,
59 provided such disqualification shall apply only while the General
60 Assembly is in session; (7)] (6) is seventy years of age or older and
61 chooses not to perform juror service; or [(8)] (7) is incapable, by reason
62 of a physical or mental disability, of rendering satisfactory juror
63 service. Any person claiming a disqualification under subdivision [(8)]
64 (7) of this subsection must submit to the Jury Administrator a letter
65 from a licensed physician stating the physician's opinion that such
66 disability prevents the person from rendering satisfactory juror service.
67 In reaching such opinion, the physician shall apply the following
68 guideline: A person shall be capable of rendering satisfactory juror
69 service if such person is able to perform a sedentary job requiring close
70 attention for six hours per day, with short work breaks in the morning
71 and afternoon sessions, for at least three consecutive business days.

72 Sec. 5. Subsection (a) of section 51-219a of the general statutes is
73 repealed and the following is substituted in lieu thereof (*Effective*
74 *October 1, 2003*):

75 (a) The Jury Administrator, who is appointed in accordance with
76 section 51-10 and subject to supervision by the Chief Court
77 Administrator, shall be responsible for qualifying, summoning,
78 selecting, managing and utilizing jurors in the Superior Court and for
79 pursuing civil enforcement proceedings in matters involving the
80 failure of a person to appear for jury service as provided in subsections

81 (a) to (d), inclusive, of section 51-237, as amended by this act.

82 Sec. 6. Subsection (b) of section 51-232 of the general statutes is
83 repealed and the following is substituted in lieu thereof (*Effective*
84 *October 1, 2003*):

85 (b) Such summons or notice shall also state the fact that a juror has a
86 right to one postponement of the juror's term of juror service for not
87 more than ten months and may contain any other information and
88 instructions deemed appropriate by the Jury Administrator. If the date
89 to which the juror has postponed jury service is improper, unavailable
90 or inconvenient for the court, the Jury Administrator shall assign a
91 date of service which, if possible, is reasonably close to the
92 postponement date selected by the juror. Such notice or summons shall
93 be made available to any party or the attorney for such party in an
94 action to be tried to a jury. The Jury Administrator may grant
95 additional postponements within or beyond said ten months but not
96 beyond one year from the original summons date, except that such
97 one-year limitation does not apply in matters involving the failure of a
98 person to appear for jury service as provided in subsections (a) to (d),
99 inclusive, of section 51-237, as amended by this act.

100 Sec. 7. Section 51-237 of the general statutes is repealed and the
101 following is substituted in lieu thereof (*Effective October 1, 2003*):

102 [Each juror, duly chosen, drawn and summoned, who fails to
103 appear shall have committed an infraction, but the court may excuse
104 him from the payment thereof. If a sufficient number of the jurors
105 summoned do not appear, or if for any cause there is not a sufficient
106 number of jurors to make up the panel, the court may order such
107 number of persons who qualify for jury service under section 51-217 to
108 be summoned as may be necessary, as talesmen, and any talesman so
109 summoned who makes default of appearance without sufficient cause
110 shall have committed an infraction.]

111 (a) Except as provided in subsection (e) of this section, each juror,
112 duly chosen, drawn and summoned, who fails to appear for jury

113 service and fails to provide the Jury Administrator with proof of a
114 valid disqualification under section 51-217, as amended by this act,
115 shall be notified, by first class mail, that the juror must contact the Jury
116 Administrator not later than twenty-one days from the date of such
117 notice to either provide proof to the Jury Administrator of a valid
118 disqualification or agree to appear for jury service within sixty days
119 from the date of such notice.

120 (b) If a sufficient number of the jurors summoned do not appear, or
121 if for any cause there is not a sufficient number of jurors to make up
122 the panel, the court may order such number of persons who qualify for
123 jury service under section 51-217, as amended by this act, to be
124 summoned as may be necessary, as talesmen, and any talesman so
125 summoned who makes default of appearance without sufficient cause
126 shall be subject to the procedures for the failure to appear for jury
127 service as provided in this section.

128 (c) If, after receiving notice pursuant to subsection (a) of this section,
129 a juror fails to provide the Jury Administrator with satisfactory proof
130 of a valid disqualification or to agree to appear for jury service within
131 the time periods specified in subsection (a) of this section, or fails to
132 appear for jury service after agreeing to do so, the Jury Administrator
133 may, in accordance with policies and procedures established by the
134 Chief Court Administrator, issue a summons and complaint and an
135 answer form to be served on such juror, by first class mail or in the
136 same manner in which a summons is served in a civil action, notifying
137 such juror to appear at a hearing before a magistrate in the judicial
138 district in which the juror was summoned for jury service. The juror
139 shall complete the answer form and file it with the Jury Administrator
140 not later than fifteen days from the date of the summons and
141 complaint. At such hearing, the juror and the Jury Administrator, or
142 the Jury Administrator's designee, shall have an opportunity to be
143 heard concerning the juror's failure to appear for jury service and there
144 shall be an irrebuttable presumption that the juror was duly chosen,
145 drawn and summoned. If the magistrate finds that the juror (1) failed
146 to appear for jury service, and (2) has not provided satisfactory proof

147 of a valid disqualification or failed to appear at such hearing, the
148 magistrate shall impose a civil penalty in accordance with section 1 of
149 this act in the amount of two hundred dollars, payable to the clerk of
150 the Superior Court. The magistrate shall affirm the action of the Jury
151 Administrator with respect to such juror unless the magistrate finds
152 that substantial rights of the juror have been prejudiced because the
153 action of the Jury Administrator is: (A) In violation of constitutional or
154 statutory provisions; (B) in excess of the statutory authority of the Jury
155 Administrator; or (C) arbitrary or capricious or characterized by abuse
156 of discretion. If the magistrate finds such prejudice, the matter shall be
157 dismissed. Any findings or decisions rendered by a magistrate
158 pursuant to this subsection are final and conclusive.

159 (d) If a juror fails to pay a civil penalty imposed pursuant to
160 subsection (c) of this section not later than thirty days from its
161 imposition, the Jury Administrator may refer the matter to the
162 Department of Administrative Services for collection as a delinquent
163 account.

164 (e) Any juror, duly chosen, drawn and summoned, who (1) fails to
165 appear for jury service at any time after (A) a civil penalty is imposed
166 on such juror pursuant to subsection (c) of this section, or (B) such civil
167 penalty is remitted in whole or in part pursuant to section 1 of this act,
168 and (2) fails to provide the Jury Administrator with proof of a valid
169 disqualification under section 51-217, as amended by this act, shall be
170 guilty of a class C misdemeanor.

171 Sec. 8. Section 52-215 of the general statutes is repealed and the
172 following is substituted in lieu thereof (*Effective October 1, 2003*):

173 In the Superior Court, a docket shall be kept of all cases. In such
174 docket immediately following the names of the parties and their
175 attorneys in all jury cases shall be entered the word "jury". The
176 following-named classes of cases shall be entered in the docket as jury
177 cases upon the written request of either party made to the clerk within
178 thirty days after the return day: (1) Appeals from probate involving the
179 validity of a will or paper purporting to be such; [] (2) appeals from

180 the actions of commissioners on insolvent estates; [, and,] and (3)
 181 except as [hereinafter] provided in this section, civil actions involving
 182 such an issue of fact as, prior to January 1, 1880, would not present a
 183 question properly cognizable in equity. [, except that there] There shall
 184 be no right to trial by jury in civil actions in which the amount, legal
 185 interest or property in demand does not exceed two hundred fifty
 186 dollars, [or in a] in summary process [case] cases or in matters
 187 involving the failure of a person to appear for jury service as provided
 188 in subsections (a) to (d), inclusive, of section 51-237, as amended by
 189 this act. When, in any of [the above-named] such classes of cases, an
 190 issue of fact is joined, the case may, within ten days after such issue of
 191 fact is joined, be entered in the docket as a jury case upon the request
 192 of either party made to the clerk. [; and any] Any such case may at any
 193 time be entered in the docket as a jury case by the clerk [,] upon
 194 written consent of all parties or by order of court. All issues of fact in
 195 any such case shall be tried by the jury, provided the issues agreed by
 196 the parties to be tried by the court may be so tried. All cases not
 197 entered in the docket as jury cases under the [foregoing] provisions of
 198 this section, including actions in which an account is demanded and
 199 judgment rendered that the defendant shall account, writs of habeas
 200 corpus and ne exeat, complaints for dissolution of marriage and all
 201 other special statutory proceedings which, prior to January 1, 1880,
 202 were not triable by jury, shall be entered on the docket as court cases [,]
 203 and shall, with all issues of law and issues of fact, other than those
 204 [hereinbefore specified,] specified in this section which may be joined
 205 in actions entered on the docket as jury cases, be disposed of as court
 206 cases.

This act shall take effect as follows:	
Section 1	<i>October 1, 2003</i>
Sec. 2	<i>October 1, 2003</i>
Sec. 3	<i>October 1, 2003</i>
Sec. 4	<i>October 1, 2003</i>
Sec. 5	<i>October 1, 2003</i>
Sec. 6	<i>October 1, 2003</i>
Sec. 7	<i>October 1, 2003</i>

Sec. 8	October 1, 2003
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JUD *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Type	FY 04 \$	FY 05 \$
Judicial Dept.	GF - Revenue Gain	Greater than 100,000	Greater than 100,000
Judicial Dept.	GF - Cost	40,500	54,000
Department of Administrative Services	GF - Potential Cost	30,000 - 150,000	40,000 - 200,000
Comptroller Misc. Accounts (Fringe Benefits)	GF - Potential Cost	6,000 - 30,000	12,000 - 60,000

Note: GF=General Fund

Municipal Impact: None

Summary

The bill is expected to generate significant revenue from civil penalties annually. It would result in an annual cost to the Judicial Department of about \$15,000 for additional mailings and \$39,000 to provide a (per diem) court magistrate to hold civil enforcement hearings concerning jury duty. Should the Judicial Department refer past due, civil penalty payments to the Department of Administrative Services (DAS) for collections, the DAS would incur significant costs under the bill. It is unlikely that the bill's criminal penalty for subsequent offenses would be enforced, and therefore there would be no potential cost related to incarceration or probation under the bill.

Explanation

The bill increases the penalty for failure to respond to a jury summons. It establishes a \$200 civil penalty for a first offense and makes second and subsequent offenses a crime that is punishable by imprisonment for up to three months, a fine of up to \$500, or both. Under current law, failure to appear for jury duty is an infraction that

is punishable by a \$121 fine; in FY 02 there were no fines imposed, and no prosecutions were conducted.

The bill requires notice to be sent by first-class mail to anyone who is summoned and fails to appear for jury duty or provide the Jury Administrator with proof of valid disqualification. The cost of mailing these notices would be about \$10,000 annually.¹ It is anticipated that roughly 50% of the people receiving notices (13,500) would respond to them, and demonstrate valid disqualification or agree to appear for jury service within sixty days of the notice.²

If a juror fails to appear or notify the court that they have a valid disqualification after receiving this notice, the Chief Court administrator may issue a summons and complaint and an answer form to be served on such juror by either: (1) first class mail (37 cents); or (2) delivery by a state marshal (\$30 fee + mileage.) The cost of these alternatives varies significantly: \$5,000 for mailing and about \$550,000 for state marshals to deliver 13,500 summonses. The extent to which each alternative would be used is unknown. However, it is likely that mailings would occur in a significant majority of cases.

It is anticipated that roughly 6,750 of the people receiving the summonses above would appear at the court hearing provided in the bill. One court magistrate would be needed to handle these hearings at an annual cost of \$39,000. Under the bill, the magistrate would be required to impose the \$200 civil penalty on each of the remaining 6,750 people summoned who did not appear. If payment is not received within 30 days, the Jury Administrator may refer the matter to the Department of Administrative Services for collection as a delinquent account. The resulting state revenue could be significant, depending upon the rate at which payments are made.³

¹ Each year, about 27,000 people do not appear for jury duty when summoned.

² This is the ratio that Massachusetts, which has a process similar to the bill's, has experienced.

³ For comparison purposes, about \$350,000 in revenue would be gained if 25% of civil penalties were paid annually.

The Department of Administrative Services (DAS) would require additional positions and resources to handle the responsibilities under the bill. The extent of additional resources needed would depend upon the type of information transmitted and method of transmittal.

The agency's Financial Services Center, which is responsible for collection of delinquent accounts, would need a part-time position, at a cost of \$30,000, and \$10,000 in support costs if the Jury Administrator provides the jury summons data in one central source in a format compatible with DAS computers, complete with Social Security numbers. If the data provided is not electronic, but does include Social Security numbers, DAS would need two full-time positions at \$60,000 each and \$50,000 in support costs. Lastly, if the data is not electronic and does not include Social Security numbers, DAS would need two full-time positions at \$60,000 each, and one part-time position at \$30,000 and \$50,000 in support costs.

The fringe benefit costs for state employees are budgeted centrally in the Miscellaneous Accounts administered by the Comptroller. The total fringe benefit reimbursement rate as a percentage of payroll is 40.21%, effective July 1, 2002. However, first year fringe benefit costs for new positions do not include pension costs lowering the rate to 18.81% in FY 04. The state's pension contribution is based upon the prior year's certification by the actuary for the State Employees Retirement System.

OLR Bill Analysis

sHB 6431

AN ACT CONCERNING JURY DUTY**SUMMARY:**

This bill establishes a two-step civil/criminal penalty for people who fail to respond to juror summonses. For first offenses, magistrates hold civil hearings and can impose fines of up to \$200 on people who failed to appear for jury service without a valid excuse. Subsequent offenses are class C misdemeanors. Currently, failure to respond to a juror summons is an infraction, punishable by a \$121 fine.

The bill also eliminates a statutory exemption for legislators summoned to serve on a date when the legislature is in session. By law, anyone can postpone the date of jury service for up to 10 months; thus, a legislator could postpone service until after the session ends.

EFFECTIVE DATE: October 1, 2003

CIVIL ENFORCEMENT

Under the bill, the jury administrator is responsible for pursuing civil enforcement when a person fails to appear for jury service without providing a valid disqualifying reason (see BACKGROUND). The administrator must send the delinquent juror notice by first class mail informing him that he must contact the administrator within 21 days from the date on the notice to either (1) provide proof of a valid disqualification or (2) agree to appear for jury service within 60 days of the notice date. The bill allows the administrator to set postponement dates in these cases more than one year after the initial summons date, which she cannot currently do.

Under the bill, if the juror fails to contact the administrator or does not appear after agreeing to a rescheduled date, the administrator may, in accordance with policies and procedures the chief court administrator establishes, issue a summons and complaint and an answer form to be served on the juror by first class mail or in the same manner in which a summons is served in a civil action. The summons directs the juror to attend a hearing before a magistrate in the judicial district where the

juror was summoned for jury service. The juror completes the answer form and files it with the administrator within 15 days of the date on the summons and complaint.

Hearings

The bill allows both the juror and jury administrator, or the administrator's designee, to be heard at the hearing, but there is an irrebutable presumption that the jury administrator properly chose, drew, and summoned the juror. The magistrate is not bound by the rules of evidence and does not keep a record of the proceedings, but testimony must be given under oath or affirmation. Either party may be represented by an attorney.

Determinations

A magistrate's findings and decisions are final and cannot be appealed. When he finds that the juror failed to appear for jury service and (1) has not provided satisfactory proof of a valid disqualification or (2) failed to appear at the hearing, he must impose the penalty unless the jury administrator's action was:

1. in violation of constitutional or statutory provisions,
2. in excess of her statutory authority, or
3. arbitrary and capricious or characterized by abuse of discretion.

The magistrate must dismiss the complaint when he finds that the jury administrator acted in the manner described above.

Civil Fines

In all other cases, the bill requires the magistrate to impose a \$200 fine, which he may remit in whole or in part. Fines are payable to the Superior Court clerk. If a juror fails to pay within 30 days, the jury administrator can refer the matter to the Department of Administrative Services for collection.

SUBSEQUENT VIOLATIONS

The bill makes people who have been ordered to pay civil fines and who fail to appear for jury service at any time thereafter without valid disqualification guilty of a class C misdemeanor, punishable by imprisonment of up to three months, a fine of up to \$500, or both.

BACKGROUND***Juror Disqualification***

Currently, people are disqualified from jury service if they:

1. are not U.S. citizens or do not permanently reside in the state;
2. are under age 18;
3. have been convicted of a felony within the past seven years, are in Department of Correction custody, or have a pending felony charge;
4. cannot speak and understand English;
5. are the governor or lieutenant governor, state or federal judges or family support magistrates, or state constitutional officers;
6. are state legislators and are called for a date when the General Assembly is in session;
7. are at least age 70 and do not wish to serve; or
8. have medical documentation showing that they are incapable of rendering satisfactory juror service.

Magistrates

Magistrates are experienced Connecticut lawyers or probate judges who have notified the court of their willingness to hear small claims and minor motor vehicle cases. They receive \$150 for each day served.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute
Yea 38 Nay 3